IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

Bail Appl..No. 4608 of 2007()

AGAINST THE JUDGEMENT/ORDER IN WPC.22682/2006 Dated 20/09/2006
CRMP.4920/2007 of J.M.F.C.-III, PUNALUR
CRIME NO.96/05 OF EXCISE RANGE, PATHANAPURAM.

.....

PETITIONER/2ND ACCUSED

K.S.PRASAD, AGED 39 YEARS,
S/O.SANKARA PILLAI,
TEKKUMKUTTATHIL VEEDU,
NJARAKKAD, TALAVOOR P.O., KOLLAM.

BY ADV. SRI.R.ARUN RAJ

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
EXCISE INSPECTOR, CRIME NO. 96 OF 2005,
OF PATHANAPURAM EXCISE RANGE REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01/08/2007, ALONG WITH BA NO. 4609 OF 2007 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. Nos.4608 & 4609 OF 2007

Dated this the 1st day of August, 2007

ORDER

Applications for regular bail. The common petitioner is alleged to have committed the offences under the Kerala Abkari Act. On two occasions – 9/12/05 and 30/9/06, the petitioner is alleged to have been found with 5 litres of arrack each. He is the 2nd accused in both the crimes. He was not arrested at the scene. The allegation is that he had taken to his heels and could not be apprehended at the time of detection. The petitioner was not arrested till 16/7/07. The petitioner surrendered on that day. He continues in custody from that date.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent of the allegations levelled against him. The petitioner had run into rough weather with the local police and Excise officials. He was obliged to come

before this Court and seek directions. By order dated 20/9/06 in W.P.(c) No.22682/06, another Bench of this Court had directed that the complaints filed by the petitioner before the Superintendent of Police, Kollam, and Excise Commissioner, Trivandrum, must be enquired into effectively and the same must be disposed of at the earliest. According to the petitioner, on his complaint, an Assistant Sub Inspector of Police of the local police had been convicted by the Vigilance Court and the police and the Excise officials are colluding with each other thereafter to vex and harass the petitioner. The enquiry which was directed under Annexure-A has not been completed yet. These cases and other similar cases have been filed against the petitioner with the transparent intention of vexing and harassing him. In these circumstances, the petitioner may be granted regular bail now he having remained in custody from 16/7/07.

3. Notice was given to the learned Public Prosecutor. The learned Public Prosecutor does not oppose the applications. But notwithstanding the opposition, I am satisfied, in the peculiar facts and circumstances of this case, that the petitioner, who has remained in custody from 16/7/07, can now be enlarged on bail under Sec.41A subject, of course, to appropriate conditions. The Investigator can be given some further time to complete the

investigation also.

4. **In the result:**

(a) These applications are allowed. The petitioner shall be released on bail on the following terms and conditions:

(i) The petitioner shall not be released from custody on the strength of this order prior to 8/8/07. The Investigator shall, in the meantime, make every endeavour to complete the investigation.

(ii) The petitioner shall execute a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(iii) The petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge

(R. BASANT, JUDGE)

Nan/